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Supreme Court of the United States

No. 370

MARIAN S. HONEYMAN

Appellant

v.

HERBERT G. HANAN, as Executor of the Last Will and Testament of Herbert W. Hanan, Deceased

Appellee

BRIEF ON BEHALF OF THE STATE OF NEW YORK AS *AMICUS CURIAE*

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Supreme Court of the United States

OCTOBER TERM, 1936

No. 370

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Appellee.

BRIEF ON BEHALF OF THE STATE OF NEW YORK AS *AMICUS CURIAE*

Statement

This brief is filed on behalf of the State of New York as *amicus curiae* pursuant to the stipulation of the parties and the special leave of the Court.

The legislation (Chapter 794, Laws of 1933), the constitutionality of which is now before this Court, is of grave consequence to the People of the State of New York. This statute, passed simultaneously with Chapter 793 of the Laws of 1933 (mortgage moratorium statute), constituted, with that statute, perhaps the most important part of a comprehensive program for the relief of mortgage creditors and debtors enacted at an Extraordinary session of

the Legislature of the State of New York in August of 1933. Because of the amount of money invested in mortgages on New York real estate (approximately $10,500,000,000 in 1932[1]), as well as the equities in this real estate, and the number of people affected, the people of the State of New York are vitally interested in sustaining the constitutionality of this statute.

The facts on this appeal are fully stated in the briefs of appellant and appellee. They require no restatement here. Nor will this brief be directed to the important question of jurisdiction herein, or to the question of whether the obligation upon which suit has been brought is primary or collateral. The brief of amicus will be directed solely to the constitutionality of Chapter 794 of the Laws of 1933.

POINT I

Chapter 794 of the Laws of 1933 does not impair the obligations of the mortgage contract.

At the time of the execution of the instrument upon which action is brought herein, Section 1083 of the Civil Practice Act governed proceedings to secure deficiency judgments in foreclosure. That section provided:

> "If a person who is liable to the plaintiff for the payment of a debt secured by the mortgage is made a defendant in the action and has appeared or has been personally served with the summons, the final judgment *may* award payment by him of the residue of the debt remaining unsatisfied after a sale of the mortgaged property and the application of the proceeds pursuant to the directions contained therein." (Italics ours.)

(1) See page 10, *infra*.

Sections 1083-a and 1083-b (Chapter 794 of the Laws of 1933) were passed subsequent to the making of appellant's contract.

The inherent power of equity in foreclosure proceedings has long been recognized to prevent gross inadequacy of price and excessive hardship and injury.

> *Home Building and Loan Association* v. *Blaisdell,* 290 U. S. 398, 446;
> *Graffam* v. *Burgess,* 117 U. S. 180, 191, 192;
> *Suring State Bank* v. *Giese,* 210 Wis. 489.

The Court is not a mere mechanical enforcing agency of the bare terms of mortgage agreements. It must protect and enforce all the equities involved.

> *Louisville Trust Company* v. *Louisville, etc. Railway,* 174 U. S. 674, 688, 689.

The decisions under Section 1083 C. P. A., just as the cases above cited, clearly establish that the appellant had no absolute or vested right to a judgment for the full difference between the proceeds of the foreclosure sale and the mortgage debt.

> *Monaghan* v. *May,* 242 App. Div. 64;
> *Guaranteed Title and Mortgage Company* v. *Scheffres,* 247 App. Div. 294;
> *Kurtz et ux.* v. *Ferrante et al.,* 243 App. Div. 739.

In *Monaghan* v. *May, supra,* the mortgages foreclosed aggregated $24,077.55. Plaintiff, the mortgagee, bid in the property for the sum of $5;000 and moved to confirm the referee's report of sale and for a deficiency judgment of $19,791.71. Leave to enter a deficiency judgment was denied on the ground that the value of the mortgaged

property in the hands of the mortgagee equaled the mortgage debt and completely satisfied it. The Court held that Section 1083 of the Civil Practice Act, providing that the Court *may* grant a deficiency judgment, is not mandatory, but leaves it within the discretion of a court of equity to grant or withhold such relief. The sale of the property was held shortly before the passage of Chapter 794 of the Laws of 1933. The decision of the Appellate Division was made subsequent to the passage. In answer to the argument that Chapter 794 did not apply to that action the Court said in part:

> "The Legislature has declared that an emergency exists, fixed the period thereof, and declared that certain remedies available to mortgages (*inter alia,* in respect to deficiency judgments) shall be subject to limitations during that period. These enactments 'provide procedure and relief which are cognate to the historic exercise of equitable jurisdiction.' Equity is not circumscribed by these statutory dates if the emergency in fact had an earlier origin. These enactments do not deprive a court of equity of its inherent power to place limitations upon the remedies available to a mortgagee in consonance with fundamental doctrines of equity. (*Clinton Trust Co.* v. *142-144 Joralemon Street Corp.,* 237 App. Div. 789.) A court of equity may do this during such times as it deems are within the period of economic stress and emergency, which period may be equal to or greater than that fixed by the Legislature.
>
> When the Legislature spoke, mortgagors and mortgagees learned, earlier than they would have if left to the results of invoking judicial power, that continued abnormal economic conditions would not be permitted to unjustly oppress the borrower. *But the judicial power to effect the same result has*

always been and still is there, responsive to a proper case for its exercise—apart from the statutory declarations (pp. 65 and 66).

* * * * * * *

In exercising its statutory jurisdiction, a court of equity will be guided by equitable principles. To obtain a deficiency judgment and determine the amount thereof, it is necessary to invoke equitable power to confirm the sale had under the judgment of foreclosure. When seeking affirmative judicial action in equity, one may not succeed if one is asking an inequitable or unconscionable result. Equity may refuse to confirm such a sale where it has produced an inadequate price (pp. 66 and 67).

* * * * * * *

The court found that the mortgagee was the purchaser at a price that was so inadequate as to shock the conscience of the court. It concluded to treat the price as merely nominal and to confirm the report in view of its further finding that the true value of the property in plaintiff's hands was equal to the amount of the mortgage debt. This made it equitable to confirm the report of sale, since the property vested in the mortgagee and fully satisfied the mortgage debt. This procedure constituted the mortgage debt as the real price on the sale. *The court having the power to refuse to confirm the report of sale because the price was inadequate, it likewise had the kindred power to refuse to authorize the entry of a deficiency judgment based on such a sale and computed on such an inadequate or nominal price base. The court thus merely declined to exercise its statutory jurisdiction except where its powers in this regard are invoked to do equity.* If the property did not equal in value the mortgage debt, then equity would require the granting of a deficiency judgment; but that is not this case (p. 67).

* * * * * * *

No rights vest, perforce the judgment of foreclosure, in plaintiff for a deficiency judgment in any amount until plaintiff satisfies a court of equity that it would be equitable and just, as a consequence of what has occurred on the sale, to authorize the entry of a deficiency judgment'' (p. 67). (Italics ours.)

Appellant's right to a deficiency judgment was thus subject, before the enactment of Chapter 794, to the provisions of Section 1083 of the Civil Practice Act and to the inherent power of equity to refuse to grant him anything beyond the satisfaction of his debt. Chapter 794 recognized that conditions of hardship were no longer occasional but, indeed, universal. In so doing it merely directed that in *all cases of foreclosure during the limited period of the emergency, necessitous circumstances compelled that deficiency judgments be subjected to judicial scrutiny and that equitable principles be applied to all persons applying for them.*

It is apparent that not even the remedies of the appellant were affected. The remedy was always subject to the inherent power of equity and Chapter 794 merely enlarged the group of cases in which equitable defenses and principles would be applied.

Appellant will undoubtedly contend that his constitutional right is not subject to such an enlargement. He contends that his contract embraced by implication only the remedies and procedure provided in said Section 1083 of the Civil Practice Act.

The people of the State of New York contend that since no person had an absolute right to a deficiency judgment prior to the passage of Chapter 794, no contractural right is lost or impaired by a statute which only defines or limits a right which is conditional, not absolute.

No one has a vested right to particular remedies or procedures, even though they are in existence when contracts are made.

Oshkosh Water Works Company v. *Oshkosh,* 187 U. S. 437, 439.

The remedies available to enforce a contract may be enlarged, modified or restricted without doing violence to Article 1, Section 10 of the Constitution.

Waggoner v. *Flack,* 188 U. S. 595, 602, 603 (Statute changed contract so as to give state previously non-existent right of forfeiture of contract);

Bernheimer v. *Converse,* 206 U. S. 516, 530 (Statute gave receivers rights to sue non-resident stockholders);

Red River Valley Bank v. *Craig,* 181 U. S. 548 (Change in law as to rights of lienors to compel sale of land as against mortgagee);

Wilson v. *Standefer,* 184 U. S. 399 (Permitted forfeiture of land contracts by the state without judicial proceedings);

Crane v. *Hahlo,* 258 U. S. 142, 147 (Changed method of review in condemnation cases from general review to a very limited form of review);

Home Building and Loan Association v. *Blaisdell,* 290 U. S. 398, 429, 430 (Permitted the extension of the period of redemption in mortgage foreclosures).

The principle underlying Chapter 794 is analogous to that stated in the case of *Bernheimer* v. *Converse, supra.* In that case this Court said:

> "Is there anything in the obligation of this contract which is impaired by subsequent legislation as to the remedy enacting new means of making the liability more effectual? The obligation of this contract binds the stockholder to pay to the creditors of the corporation an amount sufficient to pay the debts of the corporation which its assets will not pay, up to an amount equal to the stock held by each shareholder. That is his contract, and the duty which the statute imposes, and that is his obligation. Any statute which took away the benefit of such contract or obligation would be void as to the creditor, and any attempt to increase the obligation beyond that incurred by the stockholder would fall within the prohibition of the Constitution. But there was nothing in the laws of Minnesota undertaking to make effectual the constitutional provision to which we have referred, preventing the legislature from giving additional remedies to make the obligation of the stockholder effectual, so long as his original undertaking was not enlarged. There is a broad distinction between laws impairing the obligation of contracts and those which simply undertake to give a more efficient remedy to enforce a contract already made" (p. 530).

Chapter 794 makes more universally enforcible pre-existing equitable remedies, just as the statute made more universally enforcible the remedies in the *Bernheimer* case cited above.

It cannot be said that such alteration of procedure deprives appellant of his right to a deficiency judgment. In the first place, there is no *absolute* right. In the second place, he may even now have a deficiency judgment if the value of the property is insufficient to make him whole.

See *Heiman* v. *Bishop*, 272 N. Y. 83.

That Chapter 794 was in response to public need and legitimately addressed to those needs is more fully discussed in a succeeding portion of this brief.

POINT II

Chapter 794 of the Laws of 1933 is a valid exercise of legislative power.

The pertinent constitutional questions as to the validity of Chapter 794 of the Laws of 1933 under Article 1, Section 10 of the Constitution, were discussed fully by this Court in *Home Building and Loan Association* v. *Blaisdell*, 290 U. S. 398. In that case this Court declared certain established principles of constitutional law:

First: The police power of a state may be exercised directly to prevent the immediate and literal enforcement of contractual obligations by temporary and conditional restraint where vital public interests would otherwise suffer (pp. 440, 436, 437).

Second: Though emergencies do not create legislative power, they furnish the occasion for the exercise of that power (p. 426).

Third: The question in such cases is whether the emergency and the legislation bear to each other some just, legitimate and reasonable relation (p. 426).

Fourth: The economic interests of the state may, through the police power, justify the interference of its dominant power notwithstanding interference with contracts (p. 437).

Fifth: "Not only are existing laws read into contracts in order to fix obligations as between the parties, but the reservation of essential attributes of sovereign power is also read into contracts as a postulate of the legal order" (p. 435).

SIXTH: The facts found by the Legislature are presumed to be true in the absence of patent invalidity or proof to the contrary. Further, economic facts of common knowledge may be considered by the Court in determining if there exists the emergency which occasioned the exercise of the power (p. 444). (Commonly known facts of the mortgage emergency in New York appear in Appendix.)

A. The emergency which compelled the legislative action in Chapter 794 of the Laws of 1933.

The depression "is the outstanding contemporary fact, dominating thought and action throughout the country."

Atchison T. & S. F. R. Co. v. *U. S.*, 284 U. S. 248, 260.

The largest item in the internal national debt account in 1932 was the mortgage burden on the country's real estate.

Clark, the Internal Debts of the United States (20th Century Fund, 1933), page 6, *et seq.*

The urban mortgage debt burden increased by more than 300% from 1922 to 1929.

Clark, op. sit., supra, page 16.

And of the total national mortgage debt of approximately $35,000,000,000 in 1932, it has been estimated that almost 30% was secured by New York real estate.

Clark, op. sit., supra, page 5;
New York Herald Tribune, December 30, 1934, page 2.

In 1932, when the epidemic of forced sales through foreclosure reached its peak, properties foreclosed were more than six times the number of those foreclosed in 1928.[1] The assessed valuations of foreclosed properties in the Borough of Manhattan, in the City of New York in 1932 were $252,550,500 as compared with assessed values of foreclosed properties of $39,332,000 in 1928.[2] Of the properties foreclosed 91.6% were income producing.[3] Table II shows the various types of buildings which were subjected to foreclosure in the period from 1928 to 1932.

The Courts of New York took judicial notice of the sudden change in economic conditions which resulted in widespread damage to real estate investors.

> *Matter of People* (*Title and Mortgage Guaranty Co.*), 264 N. Y. 69, 85;
> *Klinke* v. *Samuels*, 264 N. Y. 144.

The situation before the Legislature disclosed that in the period of stress immediately preceding the passage of Chapter 794, property owners were not only faced with the loss of their properties but with the imposition of a terrific burden in the form of deficiency judgments. Not only were these deficiency judgments large in amount, but the deficiencies had no actual relation to the difference in value between the properties acquired in foreclosure and the amount due the mortgagee. The effect was not only to satisfy the mortgagee's debt, but to pillage the debtor's estate (*Young* v. *Weber*, 117 N. J. Eq. 242).

In Appendix Table III, the relationship between the sum bid in the foreclosure sale, the mortgage debt, the re-

(1) See Appendix Table I.
(2) See Appendix Table I.
(3) See Appendix Table II.

saltant deficiency judgment and the assessed valuation of the properties foreclosed is shown. The amount bid at the foreclosure sale is 10.44% of the value of the property as assessed for tax purposes in the 8 months period immediately preceding the passage of Chapter 794, L. 1933. Furthermore, it appeared that practically no one other than the mortgagee was bidding in at these foreclosure sales (see Appendix Table V). There was a total absence of any competition. As a result, any bid, however nominal, secured the sale at the auction room.

Under such circumstances, the situation became one in which mortgagees had within their grasp the possibility of double satisfaction. They were securing property worth in most cases the amount of the mortgage debt and, in addition, a deficiency judgment for practically the full amount of the debt (see Appendix Table III).

With these facts before it, the Legislature enacted Chapter 794 of the Laws of 1933.

The declaration of emergency included in Section 1 of Chapter 794 recites the existence of conditions which in view of the circumstances indicated herein justified the enactment. Their findings may not be lightly set aside.

Home B. & L. Ass'n v. *Blaisdell, supra,* at p. 444.

B. The reasonableness of the statute.

Chapter 794 of the Laws of 1933 does not prohibit deficiency judgments. It requires that established equitable principles be applied in each instance where an application for a deficiency judgment is made. The actual value of the property is set off against the debt. A deficiency judgment is denied only where that value is equal to or greater than the debt. If that value is less than the debt, the judgment must be for the difference between the two.

It is manifestly not unreasonable to require this offset in view of the fact that over 90% of the property involved in foreclosures between 1928 and 1932 was income producing (see Appendix Table II).

In Appendix Table V, the operation of Chapter 794 is shown. Of 172 applications for deficiency judgments made by the Mortgage Commission of the State of New York, 63 resulted in a denial of the application and in the remaining 109 cases deficiency judgments, varying between less than 1% and 75.8% of the mortgage debt were obtained. It appears that the statute merely results in more equitable deficiency judgments.

When the mortgagee makes his application for a deficiency judgment, the Court determines upon affidavit or other proof the fair and reasonable market value of the mortgaged premises as of the date of sale. In making this appraisal the Court must receive evidence

> "of the age and construction of the buildings on the premises, the rent received therefor, assessed value, location, condition of repair, the sale price of property of a similar nature in the neighborhood, conditions in the neighborhood which affect the value of the property therein, accessibility, and all other elements which may be fairly considered as affecting the market value of real property in a given neighborhood."
>
> *Heiman* v. *Bishop*, 272 N. Y. 83, 88.

This statute was held to be constitutional by the New York State Court of Appeals in the cases of *Klinke* v. *Samuels*, 264 N. Y. 144, *City Bank Farmers Trust Company* v. *Ardlea Corp.*, 267 N. Y. 224, as well as in this case.

The right which appellant claims to be deprived of is the right, in a foreclosure sale, to receive property whose

value is equal to or in excess of the mortgage debt and in addition, a deficiency judgment in an amount nearly equal to the mortgage debt.

The determining test in any case involving police power is whether or not the public benefit outweighs the resulting burden on individual interests. The burden upon the mortgagee under Chapter 794 is a requirement that he receive no more than that which is due him from the mortgagor. Such a "right" to double enrichment as the appellant here urges is unconscionable. The Constitution guarantees to no one the right to exploit or to take an unconscionable advantage of another.

Chicago Railroad etc. v. *Wellman,* 143 U. S. 339, 346;

Highland v. *Russell Car etc. Company,* 279 U. S. 253;

Patapsco Guano Co. v. *Board of Agriculture,* 171 U. S. 345;

Campbell v. *Holt,* 115 U. S. 620.

C. The provisions of the statute are limited "to the exigency which called it forth".

In accordance with the principles laid down in *Home Building and Loan Association* v. *Blaisdell,* 290 U. S. 398, and reiterated thereafter in *Worthen Company* v. *Thomas,* 292 U. S. 426, *Worthen Company* v. *Kavanaugh,* 295 U. S. 56, and *Louisville Bank* v. *Radford,* 295 U. S. 920, the relief sought to be afforded by this statute is limited strictly to the duration of the emergency and is based on reasonable terms (See Appendix Table V and *Heiman* v. *Bishop, supra*).

Not only does the statute provide for the relief to be limited strictly to the duration of the emergency period

of one year, but in addition provides an alternative remedy, the use of which relieves a mortgagee from any hardship which he may feel is imposed upon him by the statute.

In a case such as the instant one, where an independent action is being brought upon the collateral bond, there is no necessity for bringing the action during the period of the emergency. The Statute of Limitations does not run against the appellant during the emergency (Section 1077-f, Civil Practice Act, and see *City Bank Farmers Trust Company* v. *Ardlea,* 267 N. Y. 224, holding that Chapter 794 and Chapter 793, of which Section 1077-f is a part, must be read together). To this extent, the Statute merely sets up a limited postponement of the "right" to a deficiency judgment similar to the suspension expressly approved in the *Blaisdell* case.

Appellant argues that he is being deprived of a deficiency judgment permanently. He claims that once a deficiency judgment is denied to him, it is lost forever. In the first place, he may, by electing not to sue until the end of the emergency, avoid the provisions of the Statute. In the second place, he had no absolute right to a deficiency judgment under established equitable principles (see Point I, *supra*). In the third place, this Court has established that under certain necessitous circumstances, such impairment of contract as appellant claims to exist is proper under the Constitution.

Block v. *Hirsch,* 256 U. S. 135;
Marcus Brown Company v. *Feldman,* 256 U. S. 170;
Levy Leasing Company v. *Siegel,* 258 U. S. 242;
Home B. & L. Assn. v. *Blaisdell, supra.*

In the rent cases cited above, landlords were denied the right to oust tenants at the expiration of their leases, except upon reasonable terms. The right of ouster which existed at the termination of the tenant's lease *as of a particular date was permanently denied.* The power of ouster under a lease was revived at the termination of the emergency. At the end of the emergency here, Chapter 794 will become inoperative.

POINT III

The judgment of the New York State Court of Appeals should be affirmed.

Respectfully submitted,

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APPENDIX

Commonly Known Facts of the Mortgage Emergency in New York

TABLE I

Increase in Foreclosures in Borough of Manhattan, New York City, from 1928-1932[1]

Year	Assessed Valuation of Property Foreclosed in Manhattan	Per Cent. of 1928
1928	$ 39,332,000	100.00
1929	67,290,000	171.1
1930	89,879,500	228.5
1931	172,332,000	438.1
1932	252,550,500	642.1

[1] Figures compiled by the State Board of Housing (R. & G., July 22, 1933, p. 5).

TABLE II

Types of Property in Foreclosure[1]

Type of Property	Percentage of the Assessed Value of Each Type of Property to the Assessed Value of the Total Foreclosed in Manhattan				
	1928	1929	1930	1931	1932
Apartments and Tenements	68.7	62.9	61.8	52.8	61.1
Dwellings	4.8	3.2	3.6	2.4	4.2
Hotels	1.3	4.9	3.9	1.7	4.9
Lofts	12.0	15.8	13.0	14.6	12.5
Office Buildings	3.2	1.9	6.5	21.4	8.5
Stores	.3	.4	3.2	.5	.8
Theatres and Halls	1.5	4.4	1.2	.6	3.1
Garages and Stables	2.4	.5	1.1	2.4	.7
Vacant Land	.4	.8	.2	.4	.5
Miscellaneous	5.4	5.2	5.5	3.2	3.7
Total	100.	100.	100.	100.	100.

[1] Figures compiled by the State Board of Housing (R. & G., September 8, 1934, page 8.

TABLE III [1]

One Hundred and Forty (140) Foreclosure Actions Brought in the Name of New York Title and Mortgage Company, Plaintiff, for the Period from January 1, 1933 to August 15, 1933, Inclusive

RECAPITULATION

1933		Bids in Foreclosure Sales	Mortgage Debt	Deficiency Judgment	Assessed Valuation For Tax Purposes
January	1st to 31st, incl.	$120,150	$1,238,395	$1,118,245	$1,516,050
February	1st to 28th, incl.	105,000	1,002,720	897,720	1,349,625
March	Through May 31st.	36,500	921,589	885,089	1,067,400
June	Through Aug. 15th..	235,900	671,420	435,520	829,500
		$497,550	$3,834,124	$3,336,574	$4,762,575

Total Due a/c Mortgage Indebtedness..	$3,834,124
Total Bids at Foreclosure Sales.....	497,550
Total Deficiency Judgments	$3,336,574

Purchase Price of $497,550 is 12.96% (per cent.) of total Mortgage Indebtedness

Purchase price of $497,550 is 10.44% (per cent.) of Assessed Valuation

		Bids at Foreclosure Sales	Mortgage Debt	Deficiency Judgment	Assessed Valuation For Tax Purposes
Jan.	1933	$ 1,000	$ 4,797	$ 3,797	$ 4,200
		1,000	4,749	3,749	2,850
		1,000	4,749	3,750	2,850
		2,000	22,967	20,967	32,000
		10,000	145,080	135,080	161,000
		1,000	4,784	3,784	5,000
		1,500	7,765	6,265	10,000
		1,500	7,074	5,574	6,600
		1,500	9,822	8,322	14,000
		1,000	4,182	3,182	4,200
		1,850	10,701	8,851	11,000
		17,550	18,594	1,044	20,000
		1,000	4,470	3,470	4,400

[1] Plaintiff in each of these foreclosure actions was the New York Title & Mortgage Company. The properties bought in by the N. Y. T. & M. Co. were in the names of Land Estates, Inc. and Liberdar Holding Corp., two wholly owned subsidiaries. Records on file at office of N. Y. T. & M. Co., No. 141 Broadway, New York City, N. Y.

		Bids at Foreclosure Sales	Mortgage Debt	Deficiency Judgment	Assessed Valuation For Tax Purposes
Jan.	1933	$ 800	$ 7,421	$ 6,621	$ 7,200
		950	7,644	6,694	7,000
		1,200	10,759	9,559	13,000
		1,500	9,470	7,970	11,000
		1,000	4,018	3,018	4,200
		2,500	43,130	40,630	55,000
		1,500	9,476	7,976	11,000
		1,500	9,462	7,962	11,000
		1,000	6,188	5,188	9,500
		1,950	16,684	14,734	12,000
		600	4,816	4,216	4,500
		1,000	19,240	18,240	19,700
		1,000	37,689	36,689	50,000
		5,000	85,135	80,135	112,000
		10,000	36,187	26,187	46,000
		1,000	18,020	17,020	25,500
		1,000	25,312	24,312	38,000
		10,000	147,395	137,395	210,000
		1,000	18,362	17,362	45,200
		5,000	64,402	59,402	75,000
		11,000	11,980	980	15,000
		1,000	4,432	3,432	4,600
		1,000	4,397	3,397	4,200
		1,200	8,671	7,471	10,300
		1,200	8,658	7,458	10,200
		1,150	8,661	7,511	10,000
		1,000	4,234	3,234	4,800
		11,000	16,387	5,387	21,000
		100	7,322	7,222	10,000
		100	8,378	8,278	10,000
		100	8,701	8,601	11,000
		100	8,489	8,389	12,000
		100	11,530	11,430	15,000
		100	6,607	6,507	6,900
		100	8,399	8,299	9,500
		100	8,416	8,316	8,500
		100	8,077	7,977	8,000
		100	11,900	11,800	18,000
		100	195,596	195,496	210,000
		100	61,765	61,665	75,000
Feb.	1933	10,000	108,814	98,814	125,000
		5,000	104,065	99,065	105,000
		400	4,897	4,497	4,600

		Bids at Foreclosure Sales	Mortgage Debt	Deficiency Judgment	Assessed Valuation For Tax Purposes
Feb.	1933	$ 1,100	$ 8,556	$ 7,456	$ 8,000
		650	5,579	4,929	2,775
		650	5,569	4,919	2,775
		650	5,564	4,914	2,750
		650	5,665	5,015	2,800
		10,000	66,843	56,843	33,000
		650	5,616	4,966	2,800
		1,000	37,714	36,714	57,000
		100	8,000	7,900	9,800
		100	13,223	13,123	14,000
		2,000	34,494	32,494	43,000
		5,000	119,016	114,016	150,000
		650	5,880	5,230	2,775
		100	9,039	8,939	11,000
		500	1,208	708	3,000
		800	4,517	3,717	4,600
		7,000	14,723	7,723	16,000
		2,000	4,561	2,561	4,600
		10,000	27,195	17,195	30,000
		1,250	7,514	6,264	6,000
		1,000	5,112	4,112	6,100
		750	6,452	5,702	5,500
		2,500	111,085	108,585	120,000
		100	14,828	14,728	17,000
		1,000	56,731	55,731	310,000
		100	4,630	4,530	4,000
		1,000	5,117	4,117	5,500
		1,000	7,291	6,291	7,350
		1,000	7,400	6,400	6,300
		3,000	7,612	4,612	7,000
		7,500	8,647	1,147	11,000
		5,000	12,726	7,726	10,500
		10,000	79,965	69,965	110,000
		1,500	10,823	9,323	12,500
		1,000	6,614	5,614	8,000
		1,000	21,337	20,337	35,000
		1,000	4,704	3,704	4,700
		3,000	9,478	6,478	10,200
		800	4,166	3,366	3,700
		1,500	4,444	2,944	6,000
		1,000	5,306	4,306	3,000
March	1933	100	5,296	5,196	8,500
		100	10,533	10,433	12,500

	Bids at Foreclosure Sales	Mortgage Debt	Deficiency Judgment	Assessed Valuation For Tax Purposes
March 1933	$ 1,200	$ 8,232	$ 7,032	$ 7,600
	1,000	12,013	11,013	18,500
	1,500	23,150	21,650	24,000
	5,000	34,615	29,615	43,000
	5,000	39,727	34,727	35,000
	1,000	12,542	11,542	14,000
	1,000	26,744	25,744	20,000
April 1933	1,000	24,746	23,746	38,000
May 1933	100	395,795	395,695	390,000
	100	10,944	10,844	13,000
	100	10,466	10,366	13,000
	100	10,436	10,336	13,000
	5,000	119,016	114,016	185,000
	100	10,979	10,879	12,500
	100	9,342	9,242	8,200
	3,000	30,927	27,927	33,000
	100	6,144	6,044	6,500
	2,000	18,072	16,072	11,300
	100	9,342	9,242	8,000
	100	9,189	9,089	10,000
	100	9,340	9,240	8,100
	3,000	12,081	9,081	17,000
	100	10,332	10,232	12,500
	100	10,279	10,179	12,500
	4,000	20,346	16,346	41,000
	1,200	8,590	7,390	7,000
	100	9,398	9,298	9,000
	100	2,973	2,873	6,000
June 1933	1,000	9,565	8,565	9,500
	100	7,868	7,768	13,000
	100	4,040	3,940	4,800
30,	5,000	84,677	79,677	95,000
July 1933	10,000	182,771	172,771	170,000
	950	4,283	3,333	4,600
	10,000	78,121	68,121	90,000
	200,000	263,657	63,657	410,000
	350	4,539	4,189	3,900
	4,500	4,698	198	4,700
	2,100	13,731	11,631	12,000
Aug. 1933	1,800	13,470	11,670	12,000
Totals	$497,550	$3,834,124	$3,336,574	$4,762,575

TABLE IV[1]

New York Title & Mortgage Company
Foreclosures Resulting in Sales of Properties to Outsiders

Month	Year 1931 Units	Year 1931 Amount of Mortgages	Year 1932 Units	Year 1932 Amount of Mortgages	Year 1933 Units	Year 1933 Amount of Mortgages
January ..	3	$ 26,000	3	$ 17,750	3	$ 30,000
February .	3	25,700	2	27,250	0	0
March ...	5	48,500	3	42,750	1	13,000
April	4	40,250	1	2,000	1	120,000
May	6	57,000	0	0	1	15,000
June	3	18,500	2	10,750	0	0
July	9	360,150	2	359,500	0	0
August ...	3	24,000	1	4,500	1	32,000
September.	3	442,375	1	3,800	1	9,000
October ..	3	16,250	1	85,000	0	0
November.	1	16,500	3	28,400	0	0
December.	5	59,725	1	6,000	2	162,000
Total	48	$1,134,950	20	$587,700	10	$381,000

Foreclosures Cancelled Resulting in Sales of Properties to Mortgage Company or for Account of Holders of Participations in Mortgages

January ..	28	$ 3,029,250	67	$ 2,139,400	155	$ 6,304,030
February .	24	270,800	78	2,402,450	136	4,330,570
March ...	28	856,400	67	1,706,315	26	1,009,175
April	31	1,933,850	93	3,395,300	20	313,675
May	38	832,410	63	5,510,255	53	811,215
June	19	265,300	94	4,262,700	15	2,941,277.98
July	31	919,650	109	3,847,050	35	11,145,625
August ...	28	3,918,400	93	4,620,560	10	254,650
September.	43	1,378,000	116	3,770,905	16	200,000
October ..	41	1,875,775	114	9,199,760	17	218,673.93
November.	47	1,539,900	111	7,346,395	23	930,800
December .	43	516,250	160	6,037,555	16	163,035
Total	401	$17,335,985	1165	(A)$54,238,645	522	(B)$28,622,726.91

(A) Includes 155 Units—Mtges $8,026,245 acquired for a/c Gtd Holders
(B) Includes 162 Units—Mtges $4,269,283.93 " " " " "

[1] Plaintiff in each of these foreclosure actions was the New York Title & Mortgage Company. The properties bought in by the N. Y. T. & M. Co. were in the names of Land Estates, Inc. and Liberdar Holding Corp., two wholly owned subsidiaries. Records on file at office of N. Y. T. & M. Co., No. 141 Broadway, New York City, N. Y.

TABLE V

One Hundred and Seventy-two (172) Applications for Deficiency Judgments (Pursuant to Ch. 794, L. 1933) in Mortgage Foreclosure Proceedings from April 1st, 1936, to December 31st, 1936, in which the Mortgage Commission of the State of New York was Applicant[1]

Amount of Mortgage	Amount of Deficiency Judgment	Amount of Mortgage	Amount of Deficiency Judgment
$ 89,000.	$ 15,189.70	$130,000.	$ 47,160.83
70,000.	35,152.95	64,050.	33,822.10
40,000.	18,898.59	4,250.	26.04
62,500.	16,870.37	5,500.	denied
837,000.	denied	50,000.	8,576.58
35,000.	5,585.31	159,500.	41,155.95
95,000.	22,764.85	4,250.	denied
272,250.	156,984.67	6,500.	"
3,750.	1,629.02	8,000.	"
7,500.	3,657.55	72,500.	"
7,500.	denied	4,250.	"
18,000.	"	6,750.	859.14
15,000.	"	216,250.	denied
5,500.	1,380.12	66,500.	15,029.67
598,000.	170,867.73	4,250.	869.37
7,500.	4,183.25	33,500.	10,552.81
9,000.	1,845.18	4,250.	2,168.59
250,250.	23,875.41	75,000.	10,461.53
250,250.	19,554.17	10,500.	3,974.74
640,000.	317,793.68	6,500.	1,830.15
250,250.	49,306.34	3,500.	1,710.48
250,250.	54,027.75	12,500.	denied
200,000.	41,108.14	4,750.	642.63
9,000.	175.23	12,100.	denied
6,500.	denied	3,850.	2,297.55
140,000.	"	32,500.	9,135.42
30,000.	5,564.43	5,500.	750.00
20,000.	13,749.08	6,000.	1,522.53
3,750.	denied	12,000.	denied
3,750.	361.54	7,750.	"
3,750.	denied	10,750.	"
150,000.	20,588.55	3,250.	738.99
5,750.	denied	20,000.	denied
3,750.	590.21	35,000.	"
4,750.	denied	6,000.	309.27
7,750.	"	9,000.	denied

[1] These figures come from public records on file in the office of the State Mortgage Commission, 346 Broadway, New York City, N. Y.

Amount of Mortgage	Amount of Deficiency Judgment
$ 3,500.	denied
3,750.	567.98
3,750.	107.61
4,250.	229.04
4,250.	2,285.50
3,750.	347.88
3,750.	294.05
4,500.	700.88
4,750.	denied
3,500.	"
4,750.	"
4,500.	1,351.12
5,750.	1,425.46
3,500.	729.23
9,500.	2,581.68
5,500.	denied
3,250.	"
2,750.	397.29
22,500.	denied
59,250.	"
90,000.	5,364.43
3,850.	denied
6,000.	"
9,000.	1,473.70
12,500.	2,307.09
5,750.	1,771.99
3,250.	2.78
18,000.	746.96
4,500.	847.80
5,750.	1,512.26
4,500.	754.12
6,750.	denied
4,750.	546.73
5,250.	denied
2,750.	1,035.61
3,500.	1,215.32
1,900.	519.19
3,500.	680.30
4,250.	1,980.31
13,500.	5,502.22
6,500.	1,966.57
6,500.	2,168.60
4,250.	1,465.48
6,000.	979.72

Amount of Mortgage	Amount of Deficiency Judgment
$ 5,500.	denied
20,000.	"
2,000.	"
5,750.	2,945.66
4,500.	1,164.22
7,750.	denied
17,000.	"
4,000.	1,185.65
11,000.	4,829.51
3,750.	denied
4,500.	412.64
5,250.	1,443.68
97,000.	23,192.93
2,750.	1,445.51
3,250.	969.57
4,200.	930.98
42,500.	denied
3,500.	"
14,000.	5,383.12
4,200.	2,398.23
3,250.	1,679.35
4,500.	164.79
4,000.	denied
3,500.	831.26
7,000.	1,128.47
8,000.	denied
3,750.	"
8,500.	579.17
3,750.	denied
4,250.	"
4,750.	360.72
219,600.	denied
5,750.	1,983.82
3,500.	denied
3,250.	1,165.11
4,500.	denied
4,500.	"
3,250.	300.00
3,250.	958.59
30,000.	denied
7,200.	"
9,550.	"
145,500.	23,653.92
166,000.	29,009.55

Amount of Mortgage	Amount of Deficiency Judgment	Amount of Mortgage	Amount of Deficiency Judgment
$ 25,000.	denied	$ 22,500.	denied
116,400.	88,241.10	15,000.	"
3,500.	denied	9,000.	3,816.56
124,900.	82,194.19	200,000.	59,879.90
85,000.	21,194.90	3,700.	163.19
4,500.	denied	4,000.	denied